

CHAPTER 1047

PRENEED SELLERS AND PURCHASE AGREEMENTS FOR CEMETERY MERCHANDISE, FUNERAL MERCHANDISE, AND FUNERAL SERVICES

H.F. 2155

AN ACT relating to preneed sellers and purchase agreements for cemetery merchandise, funeral merchandise, and funeral services, providing penalties, and including applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. [Section 523A.207](#), Code 2022, is amended by striking the section and inserting in lieu thereof the following:

523A.207 Transfer of preneed purchase agreements — sale of a business or business assets.

1. A purchase agreement shall not be sold or transferred as part of the sale of a business, or of the assets of a business, until the seller of the business has provided all of the following to the buyer of the business:

- a. A copy of the most recent annual report filed with the commissioner by the seller.
- b. The aggregate amount of any interest income withdrawn to date from trust accounts pursuant to [section 523A.201, subsection 8](#).
- c. Copies of all purchase agreements to be assumed by the buyer.
- d. A list of the purchase agreements provided under paragraph “c” that includes all of the following:

- (1) The name of the purchaser and the name of the seller of each purchase agreement.
- (2) The total dollar amount of each purchase agreement.
- (3) The date each purchase agreement was executed.
- (4) Whether each purchase agreement is guaranteed, nonguaranteed, or mixed, and affirm or deny one hundred percent trusting of any guaranteed items and specify the lesser amount or percentage placed in trust, if applicable.

e. A list of insurance policies that are applicable to the purchase agreements provided under paragraph “c”. The list shall identify the purchase agreement to which each insurance policy applies, the named policyholder on each insurance policy, and the face amount of each insurance policy.

f. A list of trust fund beneficiaries and the amount in trust for each beneficiary.

g. A list that identifies and describes any items of presold merchandise that are not fully funded with insurance or trust funds in compliance with [this chapter](#), and the amount or percentage that is either unfunded or underfunded.

2. a. The seller of a business shall file a disclosure with the commissioner that contains the information required under [subsection 1](#), paragraphs “d” and “e”, at least thirty calendar days prior to the date of the transfer of any purchase agreements to the buyer.

b. If the seller fails to file the disclosure required under paragraph “a”, the commissioner may suspend the buyer’s preneed seller’s license, the seller’s preneed seller’s license, and the license of any sales agent authorized to sell for the buyer or seller until the disclosure is filed. In addition, the commissioner may assess a penalty against the buyer or seller in an amount up to one hundred dollars for each calendar day that the disclosure remains unfiled. The commissioner shall allow a thirty-day grace period after the date that a purchase agreement is sold or transferred before the commissioner suspends the preneed seller’s license of the buyer, seller, or of a sales agent authorized to sell for the buyer or seller, or assesses a penalty against the buyer or seller. Upon good cause, the commissioner may issue an order waiving the disclosure requirement.

3. All records maintained by the commissioner under [this section](#) shall be confidential pursuant to [section 22.7, subsection 58](#), and shall not be made available for inspection or copying except upon prior written approval of either the commissioner or the attorney general, or if sought by the preneed seller to whom the records relate. Such records shall be privileged and confidential in a judicial or administrative proceeding except for any of the following:

- a. An action commenced by the commissioner.
- b. An administrative proceeding brought by the division.
- c. An action or proceeding which arises out of the criminal provisions of the laws of this state or of the United States.
- d. An action brought by the division or the attorney general to recover moneys from embezzlement, misappropriation, or misuse of trust funds.

Sec. 2. [Section 523A.401, subsection 4](#), Code 2022, is amended to read as follows:

4. ~~The premiums of any new insurance policy shall be fully paid~~ If a preneed funeral purchase agreement contains a provision stating that the agreement will be funded by the purchase of a new insurance policy, the insurance producer who sells the insurance policy that will fund the purchase agreement shall require that any payment made by the purchaser shall be made payable only to the insurance company designated in the purchase agreement. The insurance producer shall remit the insurance policy application and the premium made payable to the insurance company designated in the purchase agreement to the insurance company within thirty calendar days after execution of the purchase agreement or, with respect to a purchase agreement that provides for periodic payments, the premiums shall be paid directly by the purchaser to the insurance company issuing that issues the insurance policy.

Sec. 3. [Section 523A.402, subsection 4](#), Code 2022, is amended to read as follows:

4. ~~The premiums of any new annuity shall be fully paid~~ If a preneed funeral purchase agreement contains a provision stating that the agreement will be funded by the purchase of a new annuity, the insurance producer who sells the annuity that will fund the purchase agreement shall require that any payment made by the purchaser shall be made payable only to the insurance company designated in the purchase agreement. The insurance producer shall remit the annuity application and the premium made payable to the insurance company designated in the purchase agreement to the insurance company within thirty calendar days after execution of the purchase agreement or, with respect to a purchase agreement that provides for periodic payments, the premiums shall be paid directly by the purchaser to the insurance company issuing that issues the annuity.

Sec. 4. **NEW SECTION. 523A.505 Duty to disclose.**

1. A sales agent, and any person who owns at least five percent of a preneed seller business, shall have an ongoing duty to disclose to the commissioner all felony crimes and those misdemeanor-level crimes involving dishonesty or false statement for which the sales agent or person has been found guilty, or for which the sales agent or person has pled guilty or no contest. Such disclosure shall be made to the commissioner within thirty calendar days of the date that the sales agent or person has been found guilty by a court of competent jurisdiction, or of the date the sales agent or person pleads not guilty or no contest.

2. A sales agent, and any person who owns at least five percent of a preneed seller business, shall have an ongoing duty to disclose to the commissioner all liens and judgments over twenty thousand dollars that have been entered against the sales agent or person, and all bankruptcy petitions that have been filed by the sales agent or person. Such disclosure shall be made to the commissioner within thirty calendar days of the date on which the lien or judgment is entered, or of the date on which the sales agent or person files a petition for bankruptcy.

Sec. 5. **NEW SECTION. 523A.506 Business continuity planning.**

A preneed seller shall establish, implement, and maintain written procedures relating to business continuity and succession planning. The business continuity and succession plan shall be based upon the specific facts and circumstances of the preneed seller's business model including the size of the preneed seller's business, the types of services provided, and the number of physical locations established and maintained by the preneed seller. The plan must provide for all of the following:

1. The protection, secure backup, and recovery of the preneed seller's business records.
2. Alternative forms of communication to ensure timely notice of all of the following to customers, key personnel, employees, vendors, and service providers:

- a. A significant business interruption.
 - b. The death or unavailability of key personnel.
 - c. A disruption of service.
 - d. The cessation of business activities.
3. Reassignment of key duties to qualified individuals in the event of the death or unavailability of key personnel.
4. Minimization and mitigation of service disruptions and negative impacts to clients that may result from a significant business interruption.

Sec. 6. **NEW SECTION. 523A.605 Allocation of growth or interest.**

If a purchase agreement funded by insurance proceeds under [section 523A.401](#) or by annuity proceeds under [section 523A.402](#) includes nonguaranteed merchandise or services, the purchaser, beneficiary, or the beneficiary's estate shall receive a credit for, and the benefit of, any growth in death benefits that is at least equal to the percentage of the total price under the purchase agreement that is attributable to the nonguaranteed merchandise or services.

Sec. 7. [Section 523A.807, subsection 3](#), unnumbered paragraph 1, Code 2022, is amended to read as follows:

If the commissioner finds that a person has violated [section 523A.201](#), [523A.202](#), [523A.203](#), [523A.204](#), [523A.207](#), [523A.401](#), [523A.402](#), [523A.403](#), [523A.404](#), [523A.405](#), [523A.501](#), [523A.502](#), ~~or 523A.502A~~, [523A.505](#), or [523A.605](#), or any rule adopted pursuant thereto, the commissioner may order any or all of the following:

Sec. 8. **APPLICABILITY.** The following applies to purchase agreements sold or transferred as part of the sale of a business, or the assets of a business, on or after July 1, 2022:

The section of this Act amending [section 523A.207](#).

Approved May 2, 2022